

1 AN ACT

2 relating to the definition of the least restrictive environment for  
3 the placement of children in foster care.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 263.001(a), Family Code, is amended by  
6 amending Subdivision (3-a) and adding Subdivision (3-b) to read as  
7 follows:

8 (3-a) "Least restrictive setting" means a placement  
9 for a child that, in comparison to all other available placements,  
10 is the most family-like setting.

11 (3-b) "Physician assistant" has the meaning assigned  
12 by Section 157.051, Occupations Code.

13 SECTION 2. Section 263.001, Family Code, is amended by  
14 adding Subsections (c) and (d) to read as follows:

15 (c) With respect to a child who is older than six years of  
16 age and who is removed from the child's home, if a suitable relative  
17 or other designated caregiver is not available as a placement for  
18 the child, placing the child in a foster home or a general  
19 residential operation operating as a cottage home is considered the  
20 least restrictive setting.

21 (d) With respect to a child who is six years of age or  
22 younger and who is removed from the child's home, if a suitable  
23 relative or other designated caregiver is not available as a  
24 placement for the child, the least restrictive setting for the

1 child is placement in:

2 (1) a foster home; or

3 (2) a general residential operation operating as a  
4 cottage home, only if the department determines it is in the best  
5 interest of the child.

6 SECTION 3. Section 264.001, Family Code, is amended by  
7 adding Subdivision (3-a) to read as follows:

8 (3-a) "Least restrictive setting" means a placement  
9 for a child that, in comparison to all other available placements,  
10 is the most family-like setting.

11 SECTION 4. Section 264.107, Family Code, is amended by  
12 adding Subsection (c) to read as follows:

13 (c) In selecting a placement for a child, the department  
14 shall consider whether the placement is in the child's best  
15 interest. In determining whether a placement is in a child's best  
16 interest, the department shall consider whether the placement:

17 (1) is the least restrictive setting for the child;

18 (2) is the closest in geographic proximity to the  
19 child's home;

20 (3) is the most able to meet the identified needs of  
21 the child; and

22 (4) satisfies any expressed interests of the child  
23 relating to placement, when developmentally appropriate.

24 SECTION 5. (a) If the Department of Family and Protective  
25 Services receives a formal determination from the United States  
26 Department of Health and Human Services stating that implementing  
27 the changes in law made by this Act will result in a reduction in

1 federal funding under either Title IV-E, Social Security Act (42  
2 U.S.C. Section 670 et seq.) or a related source of federal funds,  
3 the Department of Family and Protective Services may not implement  
4 this Act.

5 (b) For the purpose of Subsection (a) of this section,  
6 "formal determination" means a written opinion or penalty  
7 assessment contained in a Child and Family Services Review  
8 conducted by the Administration for Children and Families in the  
9 United States Department of Health and Human Services regarding the  
10 federal funding implications of the implementation of this Act.

11 SECTION 6. This Act takes effect September 1, 2017.

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President of the Senate

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Speaker of the House

I certify that H.B. No. 1542 was passed by the House on May 8, 2017, by the following vote: Yeas 134, Nays 11, 1 present, not voting.

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Chief Clerk of the House

I certify that H.B. No. 1542 was passed by the Senate on May 23, 2017, by the following vote: Yeas 28, Nays 3.

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Secretary of the Senate

APPROVED: \_\_\_\_\_

Date

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Governor